UNITED
NATIONS

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Economic and Social
Council

Distr.
GENERAL

E/CN.4/1996/67/Add.1
15 March 1996

Original: ENGLISH
ENGLISH AND
SPANISH ONLY

COMMISSION ON HUMAN RIGHTS
Fifty-second session
Item 10 of the provisional agenda

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Report on the human rights situation in the Republic of Equatorial Guinea submitted by Mr. Alejandro Artucio (Uruguay), Special Rapporteur of the Commission, pursuant to Commission resolution 1995/71 and Economic and Social Council decision 1995/282

Addendum

CONTENTS

	Paragraphs	Page
Introduction	1 - 2	2
I. PRISONERS	3 - 6	2
II. RELIGIOUS FREEDOM	7	3
III. POLITICAL RIGHTS - PRESIDENTIAL ELECTIONS	8 - 16	3
IV. CONCLUSIONS	17 - 19	4
V. RECOMMENDATIONS	20 - 23	5

GE.96-11162 (E)

Introduction

1. Given the deadline established for the presentation of his report (8 January 1996), contained in document E/CN.4/1996/67, and the new events that took place in Equatorial Guinea, the Special Rapporteur considers it necessary to incorporate into his report the present addendum, which necessarily adjusts some of the assessments made at that time.

2. The justification for this addendum is based on the fact that the Government of Equatorial Guinea moved the date of the presidential elections forward - the elections were held on 25 February 1996 instead of in June 1996. The electoral process was tainted by clearly negative events, which the Special Rapporteur will note in the following pages, and he reiterates at the outset his earlier prediction that it would be impossible to ensure credibility and transparency in the process if the electoral administration continued to function as a part of the Ministry of the Interior. The inappropriateness of this dependency in the Executive, which produced conflicts during the municipal elections of 17 September 1995, was clearly demonstrated during the presidential elections of February 1996.

I. PRISONERS

3. In his report the Special Rapporteur expressed his satisfaction at the fact that, at least in November 1995, he had not found any person imprisoned or detained in Equatorial Guinea for political offences or on political or ideological grounds, nor was the existence of such prisoners alluded to by any of his sources - a development which he regarded as highly positive. This observation was invalidated by the events of February 1996.

4. In this regard, the Special Rapporteur regrets to report that this positive view has been marred as a result of the presidential elections of 25 February 1996. Several dozen members of legally recognized political parties were arrested and detained for several days, and some were subjected to physical punishment simply for seeking to exercise the political rights that the law accords them.

5. One of the most well-known cases was the detention, beating and ill-treatment, carried out on 16 February 1996 in the capital, of the present Mayor of Malabo, the teacher Victoriano Bolekia Banay, and councillors Santiago Obama, Julián Ehapo and Celestino Bakale (all of whom were elected in the municipal elections of September 1995). The events transpired when the police raided the premises of the French Cultural Centre in Malabo, an institution which carries out outstanding cultural activities. According to the police, the prisoners were "planning a coup d'état" while in fact they, together with government officials, were following a French course. The Mayor of Malabo was released some hours later and the other prisoners were released two days afterwards. All of them were physically mistreated. The authorities did not take any action against the officials responsible for the detentions, nor against the individuals who perpetrated the ill-treatment.

6. As the Special Rapporteur has noted in previous reports, progress achieved in the respect for human rights is wiped out by intolerable actions such as those described.

II. RELIGIOUS FREEDOM

7. In his report (E/CN.4/1996/67, para. 48), the Special Rapporteur stated that religious freedom was normally exercised without major obstacles. In addition to the case presented in the report of the Catholic priest expelled from Niefang district by the government representative who considered that his sermons had a "political content", another Catholic priest, Fr. José Carlos Esono, was arrested and detained on 13 February 1996 in Bata; he was subjected to physical abuse by the police, who accused him of "anti-Government political activities".

III. POLITICAL RIGHTS - PRESIDENTIAL ELECTIONS

8. The presidential elections of 25 February 1996 did not constitute the free expression of the political will of citizens and the measures adopted by the Government robbed the electoral process of its pluralist nature.

9. The electoral authority (located, as mentioned, within the Ministry of the Interior) decided to bar the candidacy of the sole candidate of the Joint Opposition Platform (POC), the architect Amancio Gabriel Nsé, who had met all the formal requirements of the electoral law. The reason that was officially given was that due to the withdrawal of two groups from the POC - the Partido del Progreso (PP), with Severo Moto, and the Unión Popular (UP), with Andrés Moisés Mbá - the electoral coalition (POC), had "disintegrated" and "could not and should not continue to exist". For that reason, the POC could not present a common candidate and Mr. Amancio Nsé could run only as a candidate of his own political party, the Convergencia para la Democracia Social (CPDS).

10. The result was that the political parties that remained in the POC along with the Partido de Progreso and the Unión Popular withdrew from the electoral race since they considered that adequate guarantees were lacking for such an important event. As a result of the withdrawal of Amancio Nsé, Severo Moto and Andrés Moisés Mbá, the three best-known figures of the opposition, the fourth candidate, the current President of the Republic, Mr. Obiang Nguema, was the only one remaining who could win the election. A fifth candidate, Mr. Secundino Oyono, the head of a small political faction that had separated from the Convergencia Social Democrática y Popular, was the only one running against President Obiang. President Nguema won the election with 99 per cent of the votes, according to the announcement made on 26 February 1996 by the Minister of the Interior, who is also President of the National Electoral Board.

11. Although surprising, the result was the one expected by the people of Equatorial Guinea. According to the opposition, the abstention rate was very high.

12. The Special Rapporteur has received well-founded, and therefore credible, complaints of irregularities during the electoral process, including the fact that in two supermarkets in the capital the heads of the companies had applied undue pressure on the employees, threatening them with dismissal if they did not vote for the candidate of the Partido Democrático de Guinea Ecuatorial (PDGE) during the presidential elections. Moreover, some polling stations

operated within military units. Furthermore, the electoral ballots of the candidates who had decided not to participate in the race were displayed at the voting sites. Although the National Electoral Board had been duly informed of the candidates' withdrawal, it refused to remove the ballots, which contributed to the confusion of the voters. In addition, the ballots were placed on tables next to the election authorities in charge of receiving the votes, compelling the voters to take their ballots in plain view of the officials, thus depriving the secret ballot process of all meaning.

13. In the same vein, President Obiang Nguema, before the elections, publicly pronounced himself to be in favour of public voting, saying that the secret ballot was an invention brought to Equatorial Guinea from abroad. Similarly, the party of the Government, the Partido Democrático de Guinea Ecuatorial (PDGE), presented a petition demanding public voting for the presidential elections.

14. The Special Rapporteur can only remind the Commission on Human Rights of the various international legal instruments that clearly embody the principle that the will of the people is the basis of the authority of government. These instruments establish several conditions to ensure that the will thus expressed is genuine: periodic and free elections, by universal and equal suffrage and by secret ballot.

15. In this context should be mentioned article 21 (3) of the Universal Declaration of Human Rights, article 25 of the International Covenant on Civil and Political Rights, article 13 of the African Charter on Human and People's Rights, and article 23 of the American Convention on Human Rights.

16. The Governments of France, the United States of America and Spain decided not to send observers to the elections owing to the lack of guarantees to ensure that the observers would be able to carry out their work.

IV. CONCLUSIONS

17. Although the municipal elections held on 17 September 1995 constituted significant progress in the transition to democracy, the presidential elections held on 25 February 1996 marked a reversal of this trend. The measures and actions carried out in February 1996 demonstrate clearly that the principles of democracy and political coexistence have not been duly observed.

18. The Special Rapporteur had perceived a moderate political will on the part of the Government of Equatorial Guinea to continue advancing in the process of democratization. This will has been severely curtailed by the events that transpired during the presidential elections of February 1996. The Special Rapporteur is convinced that the opposition parties demonstrated their democratic will for as long as possible, but this was undermined by the measures adopted with respect to the presidential elections.

19. In conclusion, the Special Rapporteur believes that an excellent opportunity to achieve democracy has been lost. He further believes that the conditions imposed upon the opposition parties with respect to their participation in the electoral race could only have produced the results they did in fact produce.

V. RECOMMENDATIONS

20. The Special Rapporteur maintains the recommendations made in his report (E/CN.4/1996/67, paras. 78-89), and adds the following.

21. The Commission on Human Rights should clearly express to the Government of Equatorial Guinea its concern regarding the way in which the presidential elections of 25 February 1996 were carried out, that they did not constitute the free expression of the political will of the citizens and that the electoral process was not transparent nor of a pluralist nature.

22. The Commission should insist that the Government reform the electoral law, as indicated in paragraph 83 of the report. An independent electoral authority must be created, taking into consideration the cultural particularities of Equatorial Guinea and ensuring that all political forces are represented.

23. In the opinion of the Special Rapporteur, the observance of human rights and fundamental freedoms has not reached a level that warrants the discontinuation by the Commission on Human Rights of its monitoring of the situation; it should therefore proceed in the same fashion as heretofore.